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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

DAVID C., *et al.*,

Plaintiffs,

v.

JON HUNTSMAN, *et al.*,

Defendants

**NOTICE OF PROPOSED
SETTLEMENT AND
DISMISSAL OF CLASS ACTION**

CIVIL NO: 2:93-CV-00206 TC

JUDGE TENA CAMPBELL

TO: (1) All children and youth who are in the legal custody of Utah's Division of Child and Family Services (DCFS), or who are known to DCFS by virtue of a report of abuse or neglect; and

(2) Their attorney guardians *ad litem*.

Your rights will be affected by a proposed agreement in the *David C. v. Huntsman* lawsuit in the U.S. District Court for the District of Utah. This proposed agreement would result in a dismissal of the case with prejudice on December 31, 2008, and the end of federal court jurisdiction if certain conditions are met by DCFS. A preliminary hearing regarding this agreement has been scheduled for June 28, 2007, at 2:30 p.m. A final fairness hearing will be held in December 2008. Please read this Notice carefully for more information.

I. WHAT THIS LAWSUIT IS ABOUT

This class action lawsuit was filed in 1993 on behalf of children who are in the legal custody of DCFS, or who are known to DCFS by virtue of a report of abuse or neglect (“Plaintiffs”). The lawsuit alleged that the State’s treatment of these children violated federal and state law because they were placed in unsafe living situations and not provided with the support and services to which they were entitled. The lawsuit was filed against the Governor of Utah, the Director of the Department of Human Services, and the Director of the Division of Children and Family Services (“Defendants”).

The lawsuit was settled, with the Court’s approval, in August 1994. Since then the Court has overseen implementation of the settlement. In 1999, the Court ordered the Child Welfare Policy and Practice Group to act as court monitor. The Court also replaced the original settlement agreement with a new blueprint to reform the child welfare system, called the Milestone Plan.

Recently, at least 5 DCFS employees attempted to manipulate the results of the Division's quality case review process, which is designed to evaluate the performance of the child welfare system. DCFS and the Court Monitor investigated this conduct. DCFS is pursuing disciplinary actions against the employees involved and has taken steps to prevent such abuses in the future. The parties, their attorneys, and the Court Monitor agree that the integrity of the information and processes on which the settlement is based remain intact.

On May 14, 2007, the parties submitted a new agreement that, if approved by the Court, would replace the Milestone Plan. Under the terms of the new agreement, summarized below, the case will be dismissed without prejudice on June 28, 2007. In December 2008, if Defendants have complied with the material terms of the agreement, the lawsuit will be dismissed with prejudice, and no further relief will be available to the Plaintiffs through this lawsuit.

II. SUMMARY OF THE PARTIES’ PROPOSED AGREEMENT

Under the terms of the new agreement, Plaintiffs have agreed to dismiss this case without prejudice as of June 30, 2007, in exchange for certain continuing obligations on the part of Defendants. The terms of the agreement include the following:

- a. Between July 1, 2007, and October 1, 2008, Defendants will have the opportunity to run the Utah child welfare system without the involvement of the court monitor, and without active oversight of Plaintiffs or the Court.
- b. In October 2008, the court monitor will conduct a review of Defendants’ compliance with the parties’ agreement. If this review indicates that Defendants have complied with the material terms of the agreement, then the case will be dismissed with prejudice after a hearing in December 2008.

- c. If the court monitor's review indicates that there has been a material breach of the parties' agreement, Plaintiffs may meet and negotiate with Defendants, and then file a motion for enforcement of the terms of the agreement if the parties are unable to reach a resolution. The Court will retain jurisdiction to rule on such a motion as long as it is filed by December 30, 2008.
- d. As part of the stipulation, Defendants have agreed to continue operating their system in accordance with key aspects of the Milestone Plan until December 30, 2010, to establish a variety of mechanisms to ensure that the reforms achieved through the lawsuit are sustained, and to operate in accordance with other principles to ensure sustainability of reforms after December 30, 2010.

The parties' full agreement is available on the website for the Department of Human Services, www.dhs.utah.gov. Additional information can be obtained by contacting the National Center for Youth Law at 405 14th Street, 15th floor, Oakland, CA 94612 or lwelch@youthlaw.org.

III. OPINION OF THE LAWYERS FOR THE CLASS AND THE COURT MONITOR

Class members are represented by the National Center for Youth Law in Oakland, California, Morrison Foerster in San Francisco, and Jones Waldo Holbrook & McDonough in Salt Lake City. Class counsel believe that the agreement is a fair settlement that fully protects the interests of the class. The court monitor also believes that the settlement is in the best interests of the class members and their families.

IV. DAMAGES

There is no monetary award for members of the class. Therefore, there is no procedure for filing a claim for damages.

V. FAIRNESS HEARING AND OPPORTUNITY TO COMMENT

A preliminary hearing on the fairness of the parties' agreement will be held on June 28, 2007, at 2:30 p.m. before Judge Tena Campbell, U.S. District Court for the District of Utah, 350 South Main Street, Salt Lake City, Utah 84101-2180, (801) 524-6100.

Any member of the class, or their legal representative or guardian, has the right, before the hearing, to make written objections to the terms of the parties' agreement, and/or to write a statement in support of the proposed agreement. If class members object to the agreement, they should explain their reasons for objecting. Written comments should be submitted no later than June 15, 2007 to:

Judge Tena Campbell, U.S. District Court for the District of Utah,
350 South Main Street, Salt Lake City, Utah 84101-2180

The Court will provide any written comments received in response to this notice to counsel for Plaintiffs and Defendants. If class members wish to appear to testify at the fairness hearing, they should make that request in writing at the time they submit their written comments. Class members do not need to appear in person at the hearing to have their written comments considered by the Court.

The Court will review all objections from class members and their representatives. After the fairness hearings on June 28, 2007, and in December 2008, the Court will decide whether to grant final approval of the parties' agreement.